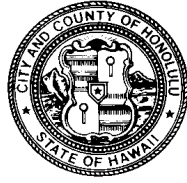


**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

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RICK BLANGIARDI
MAYOR



JAN K. YAMANE
EXECUTIVE DIRECTOR
AND LEGAL COUNSEL

ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU

Date and Place: April 14, 2021

Cisco Webex Video Conferencing
Meeting Number (Access Code): 268 451 616
Meeting Password: None (268 451 616 from phones and video systems)
or join by phone 1-408-418-9388

Present: David B. Monk, Chair
Hon. Victoria Marks (ret.), Vice Chair

Peter S. Adler, Commissioner
Hon. Riki Amano (ret.), Commissioner
Lynette Lo Kanda, Commissioner
Hon. Allene R. Suemori (ret.), Commissioner

Jan Yamane, Executive Director and Legal Counsel (EDLC)
Laurie Wong-Nowinski, Associate Legal Counsel (ALC)
Jill Yamashiro, Investigator III (INV III)
Randy Leong, Investigator I (INV I)
Derek Kiyota, Training Specialist (TS)
Heather Murakami, Private Secretary (PS)
Erin Tamashiro, Administrative Specialist (AS)
Alyson Wong, Legal Clerk III (LC III)
Kristie Kato, Sr. Clerk (Sr. CLK)

Moana Yost, Deputy Corporation Counsel
Department of the Corporation Counsel (COR)

Sandy Ma, member of the public
Cynthia Emoto, member of the public

MINUTES OF THE ETHICS COMMISSION MEETING

I. Call to Order, Public Notice, Quorum

Chair Monk called the meeting to order at 11:33 a.m. and declared quorum with all Commissioners present via Webex.

II. New Business

A. Chair's Report

1. Announcements, Introductions, Correspondence, and Additional Distribution

Chair Monk announced the following changes in the agenda. The request for a formal advisory opinion relating to items III.G and IV.G. was withdrawn. Additionally, items III.B and IV.B have been resolved and are removed from the agenda.

Chair Monk notified the Commission that he will be leaving the meeting early, and Vice Chair Marks will then preside over the meeting.

- a. Commissioners were advised that Resolution 21-080, Relating to the Appointment of Mr. Shelton G.W. Jim On to Serve on the Ethics Commission of the City and County of Honolulu, is working its way through the council.

2. For Action: Approval of Open Session Minutes of February 17, 2021

The EDLC mentioned that Sandy Ma wanted to clarify what she said in the last Ethics Commission meeting.

In the last meeting, Ms. Ma stated that Common Cause Hawaii (CCH) would leave it up to the Commission to determine how often it should meet. However, Ms. Ma wanted to clarify that CCH will leave it up to the Commission to determine the length of the meetings, so the public can know the Commission's activities which would benefit accountability and transparency. She thanked everyone for allowing her to make the clarification.

Commissioner Amano moved and Vice Chair Marks seconded to approve the Open Session minutes of February 17, 2021, as amended. The motion passed unanimously.

3. For Action: Approval of Executive Session Minutes of February 17, 2021

Commissioner Amano noted that she exited the executive session prior to taking up item IV.B. and rejoined the meeting upon return to Open Session.

Vice Chair Marks moved and Commissioner Kanda seconded to approve the Executive Session minutes of February 17, 2021, as amended. The motion passed unanimously.

B. Executive Director and Legal Counsel's Report

1. Staffing – Update

a. Hiring Process

The EDLC reminded everyone that the administration put a hiring freeze in place, which impacted our ability to hire. She added that staff submitted the exception to fill memos, which were approved. Furthermore, the Assistant Executive Director and Legal Counsel and new Associate Legal Counsel eforms have been approved.

b. Office Renovation

The EDLC stated that staff is acquiring furniture and equipment for new hires. Staff arranged for movers on April 28 to bring furniture down from the 2nd floor to the 1st floor. She stated that April was scheduled for project procurement, with construction in June and July.

c. Work Reports Summary

The EDLC noted that two staff do not have pie charts because they are still holding responsibilities with the new corporation counsel and first deputy. After their secretaries are trained, these staff will be full time with Ethics.

d. For Discussion and Action: Monthly Meetings (FY22)

The EDLC asked the Commission if it wanted to move to monthly meetings since the Commission has more staff. She clarified that the reserved meetings would become scheduled meetings, resulting in 11 (eleven) meetings a year, except for January. January would not have a meeting due to lobbyist and financial disclosure deadlines.

Commissioner Kanda asked the EDLC for a recommendation.

The EDLC stated that staff does not have a recommendation. She clarified that monthly meetings would be shorter. About three years ago, staff requested every other month meetings so that staff would have more time to complete ethics work.

Commissioner Adler suggested to return to monthly meetings so we do not lose momentum on topics, problems, and planning issues.

Commissioner Adler moved and Vice Chair Marks seconded to move to monthly meetings, beginning with the July 21, 2021 meeting. The motion passed unanimously.

Commissioner Adler further suggested to keep the option open to revert to every other month meetings.

Commissioner Kanda suggested cutting some administrative reports to work on more cases.

The EDLC noted that the Commission asked staff to track and report on daily time, which has proved useful for budget and staffing justifications.

Chair Monk suggested to keep the report as is, but save the reporting time during the meetings. He suggested to include this as an agenda item for June since it is a change in procedure.

Chair Monk added that he looks forward to resuming in-person meetings in the future.

A hybrid meeting, using both in-person and an electronic means, was met with concerns over added complexity. The EDLC stated that staff would have to explore options to do a simultaneous physical location with a Webex option. She believes that there are bills at the legislature relating to the sunshine law that may address the hybrid meeting issue and will keep the Commission updated.

2. Statistics – Update

a. Website Sessions – February, March 2021

February 2021: 849 (581 users), March 2021: 714 (540 users)

b. Financial Disclosure Filings

The EDLC reported that staff reviewed nearly 700 financial disclosures, including curing deficiencies and errors in the forms. She thanked the LCIII and Sr. CLK Lim for supporting the work.

She explained that after deficiencies have been cured, staff sends out a reminder prior to issuing the notice of violation.

c. Lobbyist Registrations, Annual Reports

The EDLC reported that there were approximately 400 forms, and that the number of lobbyists that register increases over the year.

d. Investigations

The EDLC reported that the two investigators made significant progress on the case backlog. She added that there are 32 pending cases; 25 are from FY21.

3. Budget – Update

a. FY2021 Operating Budget

The EDLC reported that staff is purchasing equipment and furniture to support new positions. She added that renovation monies will come from the Department of Design and Construction budget. She stated that many of the new desks will enable staff to sit or stand.

b. FY2022 Operating Budget Request

i. Budget Briefing – March 12, 2021

The EDLC reported that Vice Chair Marks presented at the council budget briefing. The budget second reading is today, April 14, 2021, and third reading will be on June 2, 2021.

One of the councilmembers asked for an investigation update since the council had approved the budget for additional positions. Staff responded to

the councilmember, explaining delays in the executive branch's process to fill positions and that investigator hires were in December 2020 and January 2021. The executive branch hiring process is very different from the council's process.

4. Education and Outreach – Update

a. Ethics Training Program

i. Biennial Ethics Training (FY19–FY20) – Update

The EDLC explained that the ethics training biennium was on a fiscal year basis. There is a required equal opportunity office prevention training that is offered on a calendar year basis.

When polled, administrative services officers and departmental training coordinators expressed a preference for both training to be on the same calendar year cycle. As a result, staff will move the ethics training biennium to a calendar basis.

Chair Monk asked if there would be a session scheduled that would include both trainings.

Vice Chair Marks suggested having a specialized training for the Department of Planning and Permitting in light of recent events.

The EDLC mentioned that they have been requested to attend a meeting with corporation council on this topic.

ii. Biennial Ethics Training (CY21–CY22) – Training Video Production Collaboration with Department of Customer Services (CSD)

The EDLC stated that staff is collaborating with CSD to reboot existing ethics training by creating a new voice over and changing a few slides.

CSD suggested that adding news headlines to the ethics training video will help get out the message that public servants need to do the right thing.

b. E-Newsletter, Brochures, Twitter, Website – Update

The EDLC reported the following Twitter Statistics from February 2021 to date: Total Tweets (85), Profile Visits (2,890), Tweet Impressions (26,539), and Followers (316 (10 new)).

i. Brochure – Public Trust: Ethical Reminders for Department of the Prosecuting Attorney Employees, Frequently Asked Questions (FAQ) (Draft)

The EDLC stated that this new brochure is in collaboration with the prosecuting attorney's office. She also added that financial disclosure information is included in the brochure.

Chair Monk asked the Commission to skip to item II.B.7.

- ii. Brand Development – Information Branch and Design and Print Center, Department of Customer Services (CSD)

The EDLC mentioned that staff is working with the CSD Design and Print Center to design a logo for the Ethics Commission.

5. Legislation – None

6. Education Opportunities (Commissioners and Staff) – Sunshine Law Refresher Training

The EDLC reminded Commissioners to take precautions when responding to emails and avoid “reply all” as such responses may become serial communications in violation of the sunshine law. She mentioned that Moana Yost, Deputy Corporation Counsel, and the state office of information practices are able to advise on sunshine law.

7. Evaluation Form – Executive Director and Legal Counsel

An electronic evaluation form has been distributed to Commissioners.

Chair Monk explained that the electronic form process was previously administered by former Vice Chair Michael Lilly.

Commissioner Kanda volunteered to compile the scores. Commissioners have until June 1, 2021, to send their forms to Commissioner Kanda. The EDLC requests a copy by June 14, 2021, ahead of discussion at the June 16, 2021, meeting.

Chair Monk left the meeting at 12:20 p.m.

III. Executive Session Determination

- A. For Discussion and Action: Should the Ethics Commission Exercise Its Discretion to Consider a Notice of Violation by a Lobbyist for Failure to File Complete Annual Report (Revised Ordinances of Honolulu (ROH) Section 3-13.3); Notice of Hearing (HRS Section 91-9.5)
- B. For Discussion and Action: Should the Ethics Commission Exercise Its Discretion to Consider a Notice of Violation by a City Officer for Failure to File Complete Financial Disclosure Statement (ROH Section 3-8.4); Notice of Hearing (HRS Section 91-9.5)

This item was removed from the agenda.

- C. For Discussion and Action: Should the Ethics Commission Exercise Its Discretion to Consider a Request for Review of Staff’s Preliminary Determination of January 13, 2021, Regarding Alleged Violation of the Standards of Conduct by a City Employee (Ethics Commission Rules of Procedure Section 5.5(2)(b))
- D. For Discussion and Action: Should the Ethics Commission Exercise Its Discretion to Consider a Request for Review of Staff’s Preliminary Determination of February 1, 2021, Regarding Alleged Violation of Standards of Conduct by a City Employee (Ethics Commission Rules of Procedure Section 5.5(2)(b))

- E. For Discussion and Action: Should the Ethics Commission Exercise Its Discretion to Consider a Request for Review of Staff's Preliminary Determination of February 4, 2021, Regarding Alleged Violation of Standards of Conduct by a City Employee (Ethics Commission Rules of Procedure Section 5.5(2)(b))
- F. For Discussion and Action: Should the Ethics Commission Exercise Its Discretion to Consider a Request for Review of Staff's Preliminary Determination of February 9, 2021, Regarding Alleged Violation of Standards of Conduct by a City Employee (Ethics Commission Rules of Procedure Section 5.5(2)(b))
- G. For Discussion and Action: Should the Ethics Commission Exercise Its Discretion to Consider a Request for Formal Advisory Opinion Confirming Staff Response as to Potential Conflicts of Interest of a Nominee for a City Agency

This item was withdrawn by requestor and removed from the agenda.

Commissioner Amano moved and Commissioner Kanda seconded to exit open session and enter Executive Session for items III.A through III.F, noting that items III.B. and III.G. were removed from the agenda. The motion passed unanimously.

IV. Executive Session (The following agenda items will be reviewed in executive session pursuant to Section 92-5(a)(2), Hawaii Revised Statutes (HRS), to consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved; or Section 92-5(a)(4), HRS, to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities.)

- A. For Discussion and Action: Notice of Violation by a Lobbyist for Failure to File Complete Annual Report (Revised Ordinances of Honolulu (ROH) Section 3-13.3); Notice of Hearing (HRS Section 91-9.5)

The Commission voted to adopt the Findings of Fact and Conclusions of Law, Decision and Order.

- B. For Discussion and Action: Notice of Violation by a City Officer for Failure to File Complete Financial Disclosure Statement (ROH Section 3-8.4); Notice of Hearing (HRS Section 91-9.5)

This item was removed from the agenda.

- C. For Discussion and Action: Request for Review of Staff's Preliminary Determination of January 13, 2021, Regarding Alleged Violation of the Standards of Conduct by a City Employee (Ethics Commission Rules of Procedure Section 5.5(2)(b))

The Commission granted the appeal and issuance of a new Advisory Opinion.

- D. For Discussion and Action: Request for Review of Staff's Preliminary Determination of February 1, 2021, Regarding Alleged Violation of the Standards of Conduct by a City Employee (Ethics Commission Rules of Procedure Section 5.5(2)(b))

The Commission voted to confirm staff's preliminary determination.

- E. For Discussion and Action: Request for Review of Staff's Preliminary Determination of February 4, 2021, Regarding Alleged Violation of the Standards of Conduct by a City Employee (Ethics Commission Rules of Procedure Section 5.5(2)(b))

The Commission voted to confirm staff's preliminary determination and to reach out to the supervisor to strengthen and enhance employee training.

- F. For Discussion and Action: Request for Review of Staff's Preliminary Determination of February 9, 2021, Regarding Alleged Violation of the Standards of Conduct by a City Employee (Ethics Commission Rules of Procedure Section 5.5(2)(b))

The item was postponed to the next meeting for insufficient votes due to Commissioner recusal. The item will be placed on the June 16, 2021 meeting agenda.

- G. For Decision: Request for Formal Advisory Opinion Confirming Staff Response as to Potential Conflicts of Interest of a Nominee for a City Agency

This item was removed from the agenda.

Commissioner Adler moved and Commissioner Amano seconded to exit Executive Session and to reenter Open Session. The motion passed unanimously.

V. Strategic Planning

- A. Permitted Interaction Group (Chair Monk, Vice-Chair Marks, Commissioner Suemori) – Proposed Gift Legislation – Update

The ALC announced that the next PIG meeting will be in May.

The EDLC clarified that they only have one pro bono intern left.

VI. Adjournment

- A. Next Meeting: June 16, 2021

At 1:45 p.m. Commissioner Amano moved and Commissioner Kanda seconded to adjourn the meeting. The motion passed unanimously.